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DATE: December 4, 2006

TIME: \_\_\_\_\_

PAGES: Cover + 10

**TO:**

Richard M. Ross,  
Attorney Advisor  
Office of PCT Legal Administration

**FAX NUMBER:**

571-273-0419

**COMMENTS:**

<b>FROM:</b> Peter K. Sommer	<b>EQUITRAC INIT:</b> PKS2	<b>EXT.:</b> 8345
<b>CLIENT:</b> Moog - US	<b>Client/Matter #:</b> 3001.70001	
<b>RE:</b>	<b>Attorney ID #:</b> 121	

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/527,204

Confirmation No. 2268

Applicant: Hubertus Murrenhoff *et al.*

Filed: March 10, 2005

Title: VALVE WITH INCREASED DYNAMIC RESPONSE

TC/A.U.:

Examiner:

Docket No.: MP-226

Cust. No.: 01342

Mail Stop PCT

Attn: Office of PCT Legal Administration

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

**RENEWED PETITION UNDER 37 C.F.R. § 1.181**

Sir:

This is a renewed petition under 37 C.F.R. § 1.181 to withdraw the holding of abandonment of the above case on the grounds of non-receipt of an Office communication.

This renewed petition was invited in the "Decision on Petition to Withdraw Holding Of Abandonment" dated November 28, 2006, copy attached. This renewed petition hereby incorporates by reference all of the subsidiary papers previously filed.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on August 16, 2005 was not received by the undersigned or the undersigned's office until on or about August 14, 2006.

A search of the file jacket and docket records at the undersigned's office indicates that the Office communication of August 16, 2005 was not timely received. Attached is a copy of Country Application record for Docket No. 09314 covering all actions in the above case, attesting to the fact no docket entry was made of the requirements of the Office Action of August 16, 2005 or the need

Appl. No. 10/527,204

Renewed Petition dated December 4, 2006

Reply to Decision on Petition to Withdraw Holding of Abandonment dated November 28, 2006

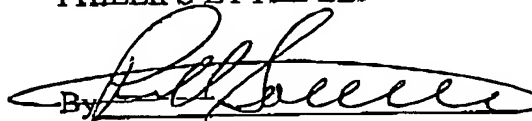
to respond thereto. This record shows all records that have been docketed for this case. Also enclosed is a Due Date List for all matters due between October 15, 2005 and October 18, 2005 (because no docketed matter was due on October 17, 2005). This corroborates the undersigned's statement that the Office Action of August 16, 2005 was not timely received, and was not docketed.

This renewed petition is believed to contain the missing averments needed for such a petition under 37 C.F.R. § 1.181.

Wherefore, applicant's attorney respectfully requests that the renewed petition be granted.

Respectfully submitted,

PHILLIPS LYTLE LLP

By 

Peter K. Sommer, Esq.  
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Buffalo, New York 14203  
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*Attorneys for Applicant*

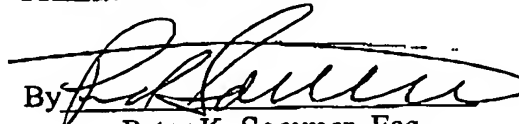
Buffalo, New York

Dated: December 4, 2006

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By 

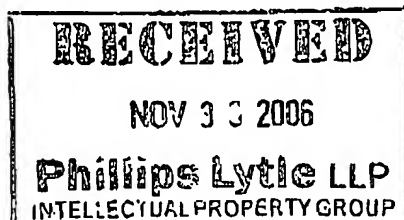
Peter K. Sommer, Esq.  
Reg. No. 26,587  
Signed: December 4, 2006



**28 NOV 2006**  
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PHILLIPS LYTLE LLP  
 Intellectual Property Group  
 3400 HSBC Center  
 Buffalo, NY 14203-3509



In re Application of:  
 MURRENHOFF, Hubertus, et al.  
 U.S. Application No.: 10/527,204.  
 PCT No.: PCT/EP2003/008550  
 International Filing Date: 01 August 2003  
 Priority Date: 11 September 2002  
 Atty Docket No.: Moog GmbH - Murrenhoff  
 For: VALVE WITH INCREASED  
 DYNAMIC RESPONSE

DECISION ON PETITION TO  
 WITHDRAW HOLDING OF  
 ABANDONMENT  
 (37 CFR 1.181)

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(a)" filed 16 October 2006, treated herein as a petition under 37 CFR 1.181 to withdraw the holding of abandonment based on applicants' purported failure to receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 16 August 2005. No petition fee is required.<sup>1</sup>

### **BACKGROUND**

On 01 August 2003, applicants filed international application PCT/EP2003/008550. The international application claimed a priority date of 11 September 2002, and it designated the United States. On 22 April 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 11 March 2005.

On 10 March 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 01 August 2005, applicants filed a status inquiry with respect to the application.

On 16 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

<sup>1</sup> The \$500 petition fee filed with the present petition will be refunded to counsel's Deposit Account.

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On 04 November 2005, applicants filed a second status inquiry.

On 12 May 2006, applicants filed a third status inquiry.

On 08 August 2006, the DO/EO/US mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements mailed 16 August 2005.

On 16 October 2006, applicants filed the "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(a)" considered herein under 37 CFR 1.181. The petition asserts that applicants did not receive the Notification of Missing Requirements mailed 16 August 2005, and that abandonment of the application for failure to respond to such Notification is therefore improper.

### DISCUSSION

Applicants filed the present petition under 37 CFR 1.137(a); however, where an applicant seeks withdrawal of a holding of abandonment based on the failure to receive an Office communication, a petition under 37 CFR 1.137(a) is not required. Rather, a petition under 37 CFR 1.181 is appropriate.

Section 711.03(c)II of the MPEP sets forth the requirements for such a petition, as follows:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact the a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The present petition includes the required statement from practitioner Peter K. Sommer that the Notification Of Missing Requirements was not received by applicant. However, the petition does not include the additional required statement from the practitioner that "a search of the file jacket and docket records" confirms that the Notification of Missing Requirements was not received.

With respect to the docket records' requirement, the present petition does not include the required docket records for counsel's firm listing all replies due in the Office on 17 October

Application No. 10/527,204

2005, the date on which a response to the Notification Of Missing Requirements was due (16 October 2005, the actual two-month response deadline, was a Sunday).

Based on the above, applicants have not satisfied the requirements for a petition to confirm the failure to receive an Office communication. Accordingly, on the present record, it cannot be concluded that applicants did not receive the Notification Of Missing Requirements mailed 16 August 2005. Withdrawal of the holding of abandonment is therefore not appropriate at this time.

It is noted that applicants' 16 October 2006 submission included the executed declaration and surcharge payment required by the Notification Of Missing Requirements.

### CONCLUSION

Applicants' petition for withdrawal of the holding of abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice. The application remains abandoned.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include the required additional statement from the practitioner's and the proper docket records, as discussed above and in the MPEP.

The \$500 petition fee included with the present submission will be refunded to Deposit Account No. 19-3320.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0419

**Country Application****Monday, December 04, 2006****Page: 1****Docket Number:** 09314**Country:** WO**SubCase:****Client Matter:** Moog GmbH**Patent Cooperation Treaty****Case Type:** ORD**Application Status:** Published**Application Number:** PCT/EP03/008550**Filing Date:** 01-Aug-2003**Publication Number:** WO 2004/033921 A1**Publication Date:** 22-Apr-2004**Patent Number:****Issue Date:****Parent/PCT Number:****Parent/PCT Date :****Parent Issue Number:****Parent Issue Date :****Tax Schedule:****Expiration Date:****Confirmation #:****Patent Term Adjustment:** 0**Owner:****Agent:** GRUNE**Agent Reference #:**

Grunecker, Kinkeldey, Stockmair &amp; Schwanhauser

**App.Title:** Highly Dynamic Valve Servocontrol Device (a/k/a "Hochdynamische Servo-Ventilsteuervorrichtung") (MP-226)**Inventors:****Family Reference:**

Murrenhoff, Hubertus

Boes, Christoph

**Abstract:** The inventive highly dynamic valve servocontrol device (1) comprises a main body (2) provided with a bushing (3) having control edges and arranged therein and a slide valve (4) which is provided with control edges and arranged in the main body. At least one control edge (5) of the slide valve is constructed in such a way that it is slidable with respect to the control edge of the bushing. Taking into consideration that the modern engineering science has a considerable optimisation potential for process control speed, the slide valve (4) and the bushing (3) are embodied such that they are oppositely slidable with respect to each other and to the main body, thereby achieving faster adjusting time. The inventive product is significantly more resistant than existing products.

**List Of Actions**

<b>Action(s) Due</b>	<b>Due Date</b>	<b>Action Taken</b>
Chapter I Due (Extended)	11-Jan-2005	Due Date
Chapter II Due (Nat'l Filing)	11-Jan-2005	Reminder
Chapter I Due (Extended)	11-Feb-2005	Reminder
Chapter II Due (Nat'l Filing)	11-Feb-2005	Reminder
Chapter I Due (Extended)	11-Mar-2005	Final
Chapter II Due (Nat'l Filing)	11-Mar-2005	Final
Chapter I Due (Extended)	01-Dec-2005	Due Date

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**Country Application**

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**Monday, December 04, 2006****Page: 2**

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**Created By:** pks2**User ID:** pks2**Date Created:** 03-Mar-2005**Last Update:** 02-Nov-2005



**Country Applications**

**New Copy Search Save Print Delete Undo Exit**

**Details:** 09314 Country: US Sub Case:   
 **Case Info | Remarks | Actions | Assignments | Letters | Costs | Designations/Family | Issues/Links | Web Links | EARS**

**Display: J Outstanding Actions Only**

9 Actions	Date	Indicator	Action Taken	Verify
Information Disclosure Stmt	10 May 2005	Reminded		(S)
Information Disclosure Stmt	10 May 2005	Due Date		(S)
Forward to Prosecution	10 Mar 2005	Due Date		(S)
Application Status Check	10 Sep 2005	Due Date		(S)
2 Mo Due Date	20 Jan 2007	Due Date		(S)
3 Mo Extension	20 Feb 2007	Reminded		(S)
2 Mo Extension	28 Mar 2007	Reminded		(S)

Record: 14 1 1 1 1 1 of 9

**Created By:** J12 **Created Date:** 12 Mar 2005 **Last Update:** 12 Mar 2005

**Go To:** Invention Generate Letters Patent Links

Record: 14 1 1 1 1 1 of 5

Monday, December 04, 2006		Due Date List By Date				Page: 1	
		15-Oct-2005 To 18-Oct-2005					
Due Date Indicator	Action Due Action Type	Docket Number/SubCase Country	Status Client Matter	App Number Pat Number	App Date Iss Date	Attys	

15-Oct-2005	Comp.Dkdd: 6 mos before 1st ma	08690 United States of America	Granted Leach & Garner Company	09/636,256 6,463,759	10-Aug-2000 15-Oct-2002	PKS	
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Title: Jewelry Finding for Producing a Necklace Having a Twisted Appearance

18-Oct-2005	Tax 3.5 Follow Up Date	08596 United States of America	Granted Clean Air Technologies International, Inc.	09/359,984 6,308,130	23-Jul-1999 23-Oct-2001		
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Tax 3.5

Title: Portable On-Board Mass Emissions Measuring System

18-Oct-2005	EP-Communication Follow Up Date	08967 European Patent Convention	Granted Moog Inc.	032 56 303.3 EP 1 411 272 B1	07-Oct-2003 31-Aug-2005	PKS	
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EP-Communication Rule 51(4)

Title: Force-Limiting Rotary Lock (MD-255)

<h2 style="margin: 0;">Report Selection</h2>			
<p><b>Monday, December 04, 2006</b></p>	<p>Record Count: <b>3</b></p>		
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<div style="display: flex; justify-content: space-between;"> <div>             From Date: <input type="text" value="15-Oct-2005"/> </div> <div>             To Date: <input type="text" value="18-Oct-2005"/> </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div>             Action Type: <input type="text"/>              Action Due: <input type="text"/>              Indicator: <input type="text"/>              Client Matter: <input type="text"/>              Country: <input type="text"/>              Area: <input type="text"/> </div> <div>             Status(es):               Status Codes:  <input checked="" type="radio"/> Active  <input type="radio"/> Inactive  <input type="radio"/> All           </div> </div>			